

HOUSE No. 1666

The Commonwealth of Massachusetts

PRESENTED BY:

George N. Peterson, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to compensate the owners of private property for the effects of certain regulatory restrictions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
George N. Peterson, Jr.	9th Worcester
Viriato Manuel deMacedo	1st Plymouth
Paul K. Frost	7th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 52 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO COMPENSATE THE OWNERS OF PRIVATE PROPERTY FOR THE EFFECTS OF
CERTAIN REGULATORY RESTRICTIONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter 21A of the General Laws, as most recently amended by Chapter
2 312 of the Acts of 2008, is hereby amended by adding at the end the following new section:—
3 Section 23. (1) A portion or parcel of private property shall be considered to have been taken for
4 general public use when;
5 (a) the Commonwealth, its agencies, departments or any political subdivisions thereof regulates
6 or imposes a restraint of land use on such portion or parcel of property for public benefit; and
7 (b) no public nuisance will be created absent regulation.
8 (2) When private property is taken for general use, the regulation agency, department or
9 Commonwealth shall pay full compensation of reduction in value to the owner, or the use of the
10 land by the owner may not be restricted because of the regulation or restraint. The
11 Commonwealth may not require waiving this compensation as a condition of approval of use of
12 another permit, nor as a condition for subdivision of land.

(3) Compensation must be paid to the owner of a private property within three months of the adoption of a regulation or restraint which results in a taking for general public use.

(4) The Commonwealth, its agencies, departments or any political subdivisions thereof may not deflate the value of property by suggesting or threatening a designation to avoid full compensation to the owner.

(5) The Commonwealth, its agencies, departments or any political subdivisions thereof that places restrictions on the use of public or privately property which deprives a landowner of access to his or her property must also provide alternative access to the property at the governmental entity's expense, or purchase the inaccessible property.

(6) The assessor shall adjust property valuation for tax purposes and notify the owner of the new tax valuation, which must be reflected and identified in the next tax assessment notice.

(7) The Commonwealth is responsible for the compensation liability of the other governmental entities for any action which restricts the use of property when such action is mandated by state law or any state agency.

(8) Claims for compensation as a result of a taking of private property under this act must be brought not later than 180 days after the adoption of a regulation or restraint which results in a taking for general public use.

(9) The following words and phrases as used in this section, unless the context otherwise requires, shall have the following meanings:

“Full compensation”, means the reduction in the fair market value of the portion or parcel of property taken for general public use which is attributable to the regulation or restraint. Such reduction shall be measured as of the date of adoption of the regulation or imposition of restraint on the use of private property.

36 “Private property”, means:

37 (a) land;

38 (b) any interest in land or improvements thereon;

39 (c) any proprietary water right.

40 “Restraint of land use”, means any action, requirement, or restriction by a governmental entity,

41 other than actions to prevent or abate public nuisances, that limits the use or development of

42 private property.

43 (10) This act may be enforced in Superior Court against any governmental entity which fails to

44 comply with the provisions of this section by an owner of property subject to the jurisdiction of

45 such entity. Any prevailing plaintiff is entitled to recover the costs of litigation, including

46 reasonable attorney’s fees.

47 (11) This section shall apply to all state regulations that were promulgated and in effect from

48 January 1, 2010, and after.